

Civil Trusts: Current Status and Issues of Civil Trusts: The Role of the Trust in an Aging Society

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Trusts in Japan should have been made to support the aging society as other things have. However, the trust service termed the welfare trust, which is the foundation for an aging society, cannot yet be said to have achieved a fully realized position in actual practice.

In this kind of context, where the current Trust Business Act itself is framed conceptually in terms of financial services-related trusts, structural problems can be considered to arise from the fact that the Financial Services Agency is viewed as the supervisory agency. When welfare trusts are considered, it becomes apparent that it is not realistic to place the Financial Services Agency entirely in charge of supervising entities that take on, as a business enterprise, more general trusts that are centered on services other than the management and disposition of property. Proper regulation cannot be provided for simply by enlarging the scope of trust business operators that are based on the current Trust Business Act. It would also appear that turning this discussion over to the Financial System Council, which deliberates on what is desirable in terms of the regulation of financial institutions and financial services, is likely to fall short of a solution.

Furthermore, there is a question in the first place of whether trusts other than those that are related to financial services should be regulated strictly in the same manner that financial regulation is carried out. In order to realize an inclusive regional society in which

people of all generations and fields can live meaningful lives in their local communities, Japan established the program for development of multi-layered support systems. In this program, cases and other situations that were not easily handled by conventional support systems are addressed by a diversity of regional agents linked together to provide close support to the parties directly concerned, treating the matter as a local issue. The idea is that this will broaden and extend associations that arise from professional specialization as well as interrelationships that local residents have shared concerns about.

This kind of support by accompaniment and support for regional development offers a perspective that, in an aging society, is likely to be indispensable for trust banks and trust companies, as well. Perhaps this can be taken as a suggestion that if the matter is reframed at the level of trust law, it will become necessary then to look closely at the movement from dynasty trusts to care trusts that Stanford University Professor Lawrence M. Friedman has pointed out.